

### **REMARKS**

Claims 1-3, 5 and 8 are pending. In the above referenced final Office Action, claims 1-3, 5 and 8 stand rejected. Applicant respectfully traverses the rejections requests reconsideration and withdrawal of the rejections in light of the following remarks.

#### **I. Rejection Under 35 USC §102**

Claims 1, 3, 5 and 8 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,561,443 to Hogrefe, et al. ("Hogrefe").

As has been articulated in previous submitted responses, the present invention is directed to use in emergency settings wherein a clinical instrument having a user interface can be deployed to provide at least a subset of programmer functionality for an implantable device. See paragraph [008]. Such circumstances may require a real-time interaction between attending medical personnel and the patient.

Hogrefe teaches a programmable implantable medication system that comprises a patient system 12, located with the patient, and a medication programming system 14, located remote from the patient, such as at a clinical setting. The system includes three communications capabilities. (See column 7, lines 13-46) The first communication capability relates to a complete data readout and prescription change capability provided by a medication programming unit 24 and communications head 26 located at a medical facility, and therefore requires the patient to be physically present at the medical facility. The second communication capability is a remote communications ability provided by modems 18 and linking telephones at the patient's home and at the medical facility and a communications head 20. The first and second communications capabilities utilize the electronics of the medication programming unit located at the medical facility.

The third communication capability is provided by a patient's programming unit 22 that merely provides the patient with the ability to immediately adjust

selected parameters in an implanted pump 16, such as an insulin rate adjustment at mealtime or during exercise. The only data transmission from the implanted pump 16 described by Hogrefe involves data transmission to the medication programming unit 24 located at the medical facility, which communication takes place between through the communications head 20, modems 18 and 28. The only instance in which data is uplinked from the implanted pump 16 is when the patient visits the medical facility and the implanted device is located close to the communication head.

As such, Hogrefe fails to teach, suggest or imply means for coordinating real-time communication between the telemetry circuit and the clinical instrument user interface to cooperatively uplink data from the implantable medical device upon receipt of an interrogation command entered on the clinical instrument user interface, as set forth in claim 1. Therefore, for at least this reason, the claims of the present invention are patentably distinguishable from Hogrefe. Accordingly, withdrawal of the rejection is respectfully requested.

Claim 2 stands rejected under 35 U.S.C. 102(b) as being anticipated by Hogrefe. Claim 2 sets forth that a connector of the module allows an electrical power source included in the clinical instrument to be connected to power the telemetry circuit of the module. While, as pointed out by the Examiner, Hogrefe includes a telephone line, which by its nature can transmit power, the telephone line of Hogrefe is merely the telephone line associated with telephones that can be used to link to modems 18 and 28 to transfer data between the patient's home and the medical facility, and therefore provides power to the telephone. Hogrefe does not teach the patient programming unit 22 receives power from the medication programming system 14. Therefore, Hogrefe does not teach that a connector of the module allows an electrical power source included in the clinical instrument to be connected to power the telemetry circuit of the module, as set forth in claim 2 of the present invention. Therefore, for at least this reason, claim 2 is patentably distinguishable from Hogrefe. Accordingly, withdrawal of the rejection is respectfully requested.

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

Should any issues remain outstanding, the Examiner is urged to telephone the undersigned to expedite prosecution.

Respectfully submitted,

June 11, 2008  
Date

/Daniel G. Chapik/  
Daniel G. Chapik  
Reg. 43,424  
Telephone: (763) 526-0940  
Customer No. 27581